

REMARKS

Applicant thanks the Examiner for the thorough consideration given the present application. Claims 1 and 5-7 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the amendments and remarks as set forth below.

Entry of Amendment

It is respectfully requested the present Amendment should be entered into the official file in view of the fact the amendments automatically place the application into condition for allowance. Alternatively, if the Examiner does not agree that the application is in condition for allowance, it is requested that the present Amendment should be entered for the purpose of appeal. The changes to claim 1 merely incorporate the limitations found in claims 2-4 which have been cancelled. Also, it is has been specified that the clip is on the upper side of the visor and the casing on the lower side. This is in keeping with the term "upper" which has been removed with regard to the clip in the middle of claim 1. Accordingly, Applicant submits that none of these limitations create any new issues.

Telephone Interview

Applicant notes with appreciation the telephone interview conducted with Examiner Ward on March 30, 2006. During that interview, various questions concerning the rejections were discussed. This includes the indication that claims 1 and 7 were objected to, the statement regarding the Information Disclosure Statement, the rejections under 35 U.S.C. § 112, first paragraph, and the art rejections. No agreement was reached as to the claims. Therefore,

Applicant is submitting the present Amendment based on the discussion conducted with the Examiner.

First, it is noted that box 7 on the Office Action Summary indicates that claims 1 and 7 are objected to. In discussing this with the Examiner, it became clear that this was merely an error.

Applicant also questions the Information Disclosure Statement indicated by the Examiner, which was filed on January 30, 2006. As Applicant noted during the interview, the IDS was not filed by Applicant's attorney. Instead, this had been filed by a different law firm and that the paper was incorrectly submitted under 37 C.F.R. § 1.501. Such a submission is allowed under 37 C.F.R. § 1.99, as indicated in MPEP § 1134.01. Applicant submits that the Examiner should handle this paper as discussed in that MPEP section.

Rejection Under 35 U.S.C. § 112

The Examiner rejected claims 1 and 7 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description thereof. The Examiner objected to the term "object" and indicated that the specification did not define this term. Applicant wishes to point out that in the specification at page 4, line 14, it is stated that the light emitter can be engaged to a curtain, etc. during a power failure at home or on a tent while camping. Applicant believes that this is support for the use of the term "object." However, in order to further the prosecution, Applicant has limited the claim to now refer to a visor of a hat. Accordingly, this rejection is rendered moot.

Rejection Under 35 U.S.C. § 103

Claims 1-7 stand rejected under 35 U.S.C. § 103 as being obvious over Lary (U.S. Patent 5,911,494) in view of Lozar (U.S. Patent 4,298,913). This rejection is respectfully traversed.

The Examiner relies on Lary to show a cap having a light emitter with a removable halide light having a casing forming a body 11, a switch 25, a plurality of lamps 34, a battery 26 and a clip 16, 21. The Examiner admits that Lary does not show a clip provided on an upper side of the outer surface of the casing to provide an elastic force. The Examiner relies on Lozar to show a light emitter 100 having a clip 95 with an elastic force.

Applicant submits that claim 1 is not obvious over this combination of references. Claim 1 describes the emitter as a clip type emitter. It is clear that Lary does not show any type of clip, but rather a hook and loop fastener to hold the lamp in place, while Lozar shows a clip arrangement 95 into which the visor is wedged. However, this clip does not provide an elastic force in the same manner as the present invention. Instead, the visor must be forced between the plates of the clip. It is further noted that the visor of a miner's helmet is typically fairly stiff so that the clip does not need an elastic force *per se*. It is further noted that claim 1 describes a plurality of lamps provided at regular intervals. Lozar shows a single lamp. Lary shows a single lamp, except for figure 6 which shows a possibility of two lights. However, with only two lights, it is not possible for the lamps to be spaced at regular intervals. There is only a single interval between two lamps and accordingly it is not possible to compare it to any other interval. This differs from the present invention where three lamps are provided and the two intervals are similar.

Claim 1 further describes the emitter as being detachably engaged to a visor of a hat with a clip on an upper side of the visor and the casing on the lower side of the visor. Lary does not show a clip at all. Lozar shows half of the clip being on each side of the visor.

These differences between the presently claimed invention and the prior art lead to real life advantages. Thus, the use of an integrally formed body and clip allows a low cost of manufacturing and a compact structure. The compactness is important in order to avoid obstructing the view of the wearer. Also, the present emitter is light weight which prevents damage to the visor of the cap and also does not interfere with the movement of the user's head.

Furthermore, by having the clip above the visor and the casing below the visor, the light is protected from the rain and thus becomes more waterproof. It also protects the light from impact with outside objects, such as brush when hiking. It also places the lamp closer to the eyes so that the beams of the lamp are closer to the angle of vision of the user's eyes. This differs from either Lary or Lozar where the lamps are above the visor and accordingly must be angled downwardly in order to shine where the user's eyes are looking.

Further, it is noted that the clip 28 of the present invention has a specific shape and is integrally formed with the casing so as to provide an elastic force. This differs from Lozar where any clamping is due to the forcing of the plates in an outward direction. The present clip provides an elastic force at all times due to its shape. Due to the shape also, the hooks can be fitted to any type of visor since the clip has a force which causes it to actually come into contact with the casing and allows for a relatively wide stretching of the clip when necessary.

Further, it is noted that by having a plurality of lights, the emitter can continue to operate even if one or two of the bulbs are burned out or damaged. This differs from Lozar and most of

the embodiments of Lary where a single lamp is shown. The other embodiment of Lary includes only two lights so that if both lights are damaged, there is no third light to provide continued illumination. For these reasons, Applicant submits that claim 1 is not obvious over the combination of references.

Claims 5-7 depend from claim 1 and as such are also considered to be allowable. In addition, these claims include other limitations which would make them additionally allowable. Thus, claim 5 points out that the emitter can be attached merely by pushing the light into position. Claim 6 points out that the lamps provide a range that is the same as the view end of the user. This is different from the Lozar and Lary references where the lights are above visor and accordingly do not have the same view angle as the user. Claim 7 further defines the deformation of the clip to receive the visor. Accordingly, these claims are additionally allowable.

Conclusion

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied upon by the Examiner, either alone or in combination. In view of this, reconsideration of the rejections and allowance of all the claims are respectfully requested.

If the Examiner has any questions or comments, please contact Robert F. Gnuse, Reg. No. 27,295 at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

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Respectfully submitted,

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